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Maryland Department of Planning

Robert L. Ehrlich, Jr.
Governor
Michael S. Steele
Lt. Governor

Audrey E. Scott
Secretary
Florence E. Burian
Deputy Secretary

March 2, 2006

Walter D. Cruickshank
Acting director
Minerals Management Service
Attn: Rules Processing Team
381 Elden Street, MS-4024
Herndon, Virginia 20170-4817

RE: Alternate Energy-Related Uses on the Outer Continental Shelf. RIN 1010-AD30

Dear Mr. Cruickshank,

The Maryland Maritime Archeology Program within the Maryland Historical Trust (MHT) and State Historic Preservation Office appreciates the opportunity to offer comments to the Minerals Management Service (MMS) with respect to the development of a regulatory program to implement portions of the Energy Policy Act of 2005, Section 388 – Alternate Energy – Related Uses on the Outer Continental Shelf, published in the *Federal Register* (70 CFR 250 (2005)), December 30, 2005. MHT's remarks address the "environmental information, management, and compliance" areas identified in the request for comments, but have relevance for other issues and program areas.

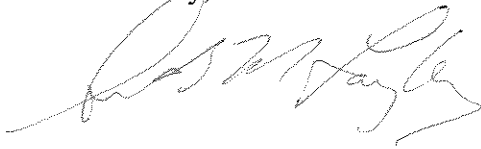
While this office applauds efforts to develop alternative energy sources, it has extensive legally-mandated duties to manage and preserve the non-renewable and generally fragile historic and prehistoric cultural resources now submerged off Maryland's shores (COMAR 83B, §05.03). These duties include compliance with both State and federal historic preservation laws. Therefore, MHT urges MMS to consider carefully its federal responsibilities under the National Historic Preservation Act (NHPA), particularly Sections 106 and 110 (16 U.S.C. §§470-470w-6) in the early stages of planning for the permitting, locating and operation of any alternative energy production sites. In addition, any granting of private access rights to the public lands of the Outer Continental Shelf (OCS) including leases, easements, and rights-of-way, are "undertakings" (36 CFR 800.16(y)) and as such require determinations by MMS in order to comply with Section 106, as noted previously. Consultation with appropriate State Historic Preservation Offices, other consulting parties such as the federal body, the Advisory Council on Historic Preservation, and the interested public is imperative. It is critically important that the MMS regulations are clear that these groups must be afforded an opportunity to comment on such undertakings and have involvement in decision-making.

In compliance with Section 110 of the NHPA of 1966 as amended, MMS is required to undertake cultural resources surveys to locate, identify, evaluate, nominate and protect historic and prehistoric archeological properties that are determined eligible for inclusion in the National Register of Historic Places. In addition, there are other requirements regarding protection of significant historic and archeological properties located on federal lands under Section 110, which MMS must meet.

In developing its regulations, guidelines, policies and education materials for the management of cultural resources on the OCS, it is crucial that MMS consider and be consistent with other state and federal programs, laws, regulations, guidelines, and materials created for the training and education of historic preservation and archeological professionals and the message being provided to the general public. They should consider feasible and practical alternatives to activities and policies that conflict with the preservation of non-renewable cultural resources with the aim of strengthening protection for these resources as a significant part of the nation's patrimony; cognizant of the fact that these resources cannot be restored if negatively impacted.

This office is appreciative of the opportunity to provide comments and would be willing to participate in planning, task force, or other committees to assist in the development of these documents. If you have any questions or wish to discuss this further, please contact me at 1-800-756-0119 x7662 (410-514-7662) / slangley@mdp.state.md.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Susan B.M. Langley', written in a cursive style.

Susan B.M. Langley, Ph.D.
Maryland State Underwater Archeologist
Maryland Maritime Archeology Program

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